

TPW



ATTORNEY'S DOCKET NO.: S1022.80602US00

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David SMITH
Serial No.: 09/769,004
Filed: January 24, 2001
For: DESIGN FLOW CHECKER

Examiner: Baoquoc N. To
Art Unit: 2172

Confirmation No. 3814

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW A HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181(a)

Sir:

Applicant respectfully petitions that the Holding of Abandonment for the above-identified application be withdrawn. This Petition for Withdrawal of Notice of Abandonment is responsive to the Notice of Abandonment mailed from the Patent Office on May 20, 2005. The Notice indicates that the application is abandoned in view of Applicant's failure to respond to the Final Office Action mailed from the Patent Office on June 29, 2004.

BACKGROUND

Applicant received an Office Action mailed from the Patent Office on December 3, 2003 and filed an Amendment to the application on April 5, 2004. Having received no further Office Action from the Patent Office responsive to this Amendment, Applicant filed a Status Inquiry on January 18, 2005.

Applicant received a Notice of Abandonment mailed from the Patent Office May 20, 2005 for failure to respond to a Final Office Action mailed from the Patent Office on June 29, 2004. Applicant respectfully disagrees with the abandonment on the basis that the Office Action mailed from the Patent Office on June 29, 2004 *was returned to the Patent Office on July 16, 2004.*

Thus, it should be obvious that Applicant did not receive the Office Action. The undersigned verifies that he has searched the file jacket and the docket log of the application to confirm that, in fact, no Office Action was received.

Applicant's Status Inquiry of January 18, 2005, received in the Patent Office on January 1, 2005, was never responded to, Applicant was not informed at that time that an Office Action had been sent and returned to the Patent Office.

The above-identified application is being held abandoned in view of the Applicants failure to respond to the Office Action stated to have been mailed on June 29, 2004.

In support of Applicant's contention that this application should not be abandoned, Applicant encloses a highlighted copy of a PAIR printout showing the date of the: 1) mailing of the Final Office Action, 2) mail returned to the Patent Office; 3) Applicant's Status Inquiry, 4) a docket log for this application and 4) the Notice of Abandonment. It appears in the printout of the envelope returned to the Patent Office that the address was not showing through the window which would account for the failure of the Postal Service to deliver the envelope and instead return it to the Patent Office.

Applicable Rules and Procedures

MPEP § 711.03(c) sets forth the requirements for a Petition to Withdraw Holding of Abandonment based on the failure to reply within period. MPEP § 711.03(c) states in part that:

"Where an applicant contends that the application is not in fact abandoned (e.g., there is a disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. "

MPEP § 711.03(c) also sets forth the requirements for showing required to support a Petition to Withdraw Holding of Abandonment based on the failure to to receive an Office. MPEP § 711.03(c) states in part that:

"The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must

be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action."

The Holding of Abandonment Should be Withdrawn

Applicant has complied with the requirements for making a successful petition to withdraw the holding of abandonment. Thus, the Petition to Withdraw the Holding of Abandonment should be granted.

Clearly the Final Office Action was not received by Applicant, therefore Applicant could not respond and under the circumstances the application should not be abandoned.

Applicant respectfully requests that the Office Action identified and any related papers be re-mailed to the undersigned attorney so that Applicant can have the opportunity to respond.

If it is determined, after reviewing the petition, that this petition should not be granted for some reason, the Petitions Office is respectfully requested to call Applicants' representative at the number listed below.

No check is enclosed. However, if it is determined that a fee is necessary, the fee may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 3, 2005.

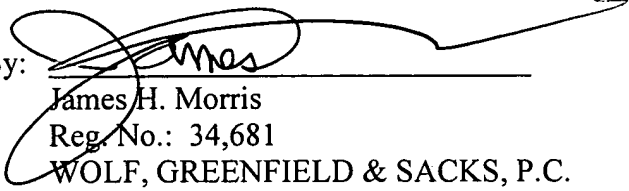


Attorney Docket No.: S1022.80602US00
X06/20/05

Respectfully submitted,

David Smith, Applicant

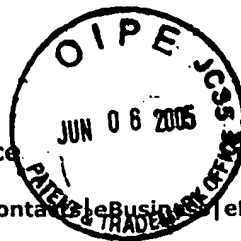
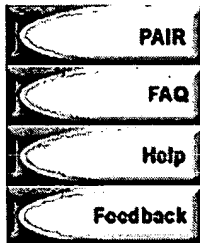
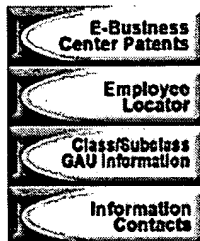
By:



James H. Morris
Reg. No.: 34,681
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210
Tel. (617) 646-8000



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contact Us](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)
**PATENT APPLICATION INFORMATION RETRIEVAL****Other Links****Image File Wrapper for Application No.:09/769,004**

NET

This application is officially maintained in electronic form. To View: Click the desired Document Description, then click the desired document(s) and click Download.

| Mail Room Date | Document Description | Document Category |
|----------------|---|-------------------|
| 05/20/2005 | Abandonment | PROSECUTION |
| 01/21/2005 | Miscellaneous Incoming Letter | PROSECUTION |
| 07/16/2004 | Mail returned to USPTO as undelivered | PROSECUTION |
| 06/29/2004 | Final Rejection | PROSECUTION |
| 06/23/2004 | Examiner's search strategy and results | PROSECUTION |
| 04/12/2004 | Fee Worksheet (PTO-875) | PROSECUTION |
| 04/12/2004 | Amendment - After Non-Final Rejection | PROSECUTION |
| 04/12/2004 | Transmittal letter | PROSECUTION |
| 04/12/2004 | Applicant Arguments or Remarks Made in an Amendment | PROSECUTION |
| 04/12/2004 | Extension of Time | PROSECUTION |
| 04/12/2004 | Claims | PROSECUTION |
| 12/03/2003 | Non-Final Rejection | PROSECUTION |
| 12/01/2003 | Examiner's search strategy and results | PROSECUTION |
| 09/03/2003 | Extension of Time | PROSECUTION |
| 09/03/2003 | Miscellaneous Incoming Letter | PROSECUTION |
| 09/03/2003 | Applicant Arguments or Remarks Made in an Amendment | PROSECUTION |
| 09/03/2003 | Claims | PROSECUTION |
| 09/03/2003 | Specification | PROSECUTION |
| 09/03/2003 | Amendment - After Non-Final Rejection | PROSECUTION |
| 04/28/2003 | Extension of Time | PROSECUTION |
| 04/28/2003 | Transmittal letter | PROSECUTION |
| 04/28/2003 | Applicant Arguments or Remarks Made in an Amendment | PROSECUTION |
| 04/28/2003 | Claims | PROSECUTION |

| | | |
|------------|--|-------------|
| 04/28/2003 | <u>Specification</u> | PROSECUTION |
| 04/28/2003 | <u>Amendment - After Non-Final Rejection</u> | PROSECUTION |
| 12/20/2002 | <u>List of References cited by applicant and considered by examiner</u> | PRIOR ART |
| 12/20/2002 | <u>List of references cited by examiner</u> | PRIOR ART |
| 12/20/2002 | <u>Non-Final Rejection</u> | PROSECUTION |
| 12/12/2002 | <u>Examiner's search strategy and results</u> | PROSECUTION |
| 04/05/2001 | <u>Drawings</u> | AS FILED |
| 04/05/2001 | <u>Oath or Declaration filed</u> | PROSECUTION |
| 04/05/2001 | <u>Drawings</u> | PROSECUTION |
| 04/05/2001 | <u>Applicant Response to Pre-Exam Formalities Notice</u> | PROSECUTION |
| 04/05/2001 | <u>Foreign Priority Papers Filed</u> | PROSECUTION |
| 03/09/2001 | <u>Pre-Exam Formalities Notice</u> | PROSECUTION |
| 01/24/2001 | <u>Claims</u> | PROSECUTION |
| 01/24/2001 | <u>Amendment - After Non-Final Rejection</u> | PROSECUTION |
| 01/24/2001 | <u>NPL Documents</u> | PRIOR ART |
| 01/24/2001 | <u>Information Disclosure Statement (IDS) Filed</u> | PROSECUTION |
| 01/24/2001 | <u>Fee Worksheet (PTO-875)</u> | PROSECUTION |
| 01/24/2001 | <u>Abstract</u> | PROSECUTION |
| 01/24/2001 | <u>Claims</u> | PROSECUTION |
| 01/24/2001 | <u>Specification</u> | PROSECUTION |
| 01/24/2001 | <u>Drawings</u> | PROSECUTION |
| 01/24/2001 | <u>Transmittal letter</u> | PROSECUTION |
| 01/24/2001 | <u>Index of Claims</u> | PROSECUTION |
| 01/24/2001 | <u>Search information including classification, databases and other search related notes</u> | PROSECUTION |
| 01/24/2001 | <u>Issue Information including classification, examiner, name, claim, renumbering, etc.</u> | PROSECUTION |
| 01/24/2001 | <u>Drawings</u> | AS FILED |
| 01/24/2001 | <u>Abstract</u> | AS FILED |
| 01/24/2001 | <u>Claims</u> | AS FILED |
| 01/24/2001 | <u>Specification</u> | AS FILED |
| 01/24/2001 | <u>Foreign Reference</u> | PRIOR ART |
| 01/24/2001 | <u>NPL Documents</u> | PRIOR ART |
| 01/24/2001 | <u>Preliminary Amendment</u> | AS FILED |
| 01/24/2001 | <u>Transmittal letter</u> | AS FILED |
| | <u>Applicant Arguments or Remarks Made in an</u> | |

| | |
|------------|------------------|
| 01/24/2001 | <u>Amendment</u> |
|------------|------------------|

| |
|-------------|
| PROSECUTION |
|-------------|

Sorted By : Mail Room Date

[|.HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/769,004 | 01/24/2001 | David Smith | S1022/8602 | 3814 |

7590 06/29/2004
James H. Morris
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210



EXAMINER

TO, BAOQUOC N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2172

DATE MAILED: 06/29/2004

14

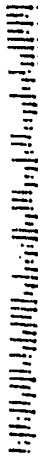
Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

JUL 16 2004

Technology Center 2100

2



COMMISSIONER FOR PATENTS

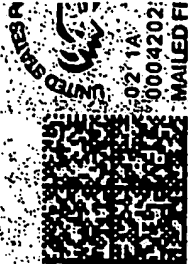
P.O. BOX 1450

ALEXANDRIA, VA 22313-1450

IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

AN EQUAL OPPORTUNITY EMPLOYER



Best Available Copy



2:72
STW

DOCKET NO: S1022.80602US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David SMITH
Serial No: 09/769,004
Filed: January 24, 2001
For: DESIGN FLOW CHECKER

Examiner: Baoquoc N. To
Art Unit: 2172

Confirmation No: 3814

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATUS INQUIRY


Sir/Madam:

Applicant hereby inquires as to the status of the above-identified patent application. There has been no communication from the Patent Office since Applicant filed an amendment on April 5, 2004.

To date Applicant has received no new Office Action. Please advise.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this document is being placed in the United States mail with first-class postage attached, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 18, 2005.



Attorney Docket No.: S1022.80602US00

Respectfully submitted,

David Smith, Applicant

By: 

James H. Morris
Reg. No.: 34,681
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210
Tel. (617) 720-3500

LEA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/769,004 | 01/24/2001 | David Smith | S1022/8602 | 3814 |
| 7590 | 05/20/2005 | | 4500 | |

James H. Morris
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

EXAMINER
TO, BAOQUOC N

ART UNIT
2162

PAPER NUMBER

DATE MAILED: 05/20/2005



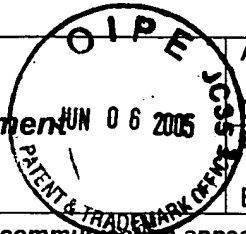
Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|--------------|-------------------------------------|----------|
| Confirmation | <input type="checkbox"/> | Initials |
| Docketing | <input checked="" type="checkbox"/> | la |
| 06/20/05 | | |

144m/LEA

| |
|-------------|
| DOCKETED |
| MAY 26 2005 |

4



Notice of Abandonment

| | | |
|-----------------|--------------|--|
| Application No. | Applicant(s) | |
| 09/769,004 | SMITH, DAVID | |
| Examiner | Art Unit | |
| Baoquoc N. To | 2162 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 June 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The Final Office Action mailed on 06/29/2004 with the corrected address of James H. Morris (Wolf, Greenfield & Sacks, P.C.) Boston, MA 02210, however, the mail has returned back to the Patent Office on 07/16/2004. No reply has been received.

[Signature]
JEAN M. CORRIELUS
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

6/3/2005

Docket Log



| Parties When Received | Date Type | Date Received | Case Number | Mailing Date | Email | Fax | System |
|-----------------------|-----------|---------------|-----------------|--------------|--------------------------|--------------------------|--------|
| | | 3/18-Jan-2001 | S1022.80602US00 | 12-Jan-2001 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 1/16-Mar-2001 | S1022.80602US00 | 09-Mar-2001 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/16-Mar-2001 | S1022.80602US00 | 09-Mar-2001 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/23-May-2001 | S1022.80602US00 | 16-May-2001 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/18-Jun-2001 | S1022.80602US00 | 13-Jun-2001 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/26-Jul-2002 | S1022.80602US00 | 23-Jul-2002 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/30-Dec-2002 | S1022.80602US00 | 20-Dec-2002 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/08-Dec-2003 | S1022.80602US00 | 03-Dec-2003 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |
| | | 3/23-May-2005 | S1022.80602US00 | 20-May-2005 | <input type="checkbox"/> | <input type="checkbox"/> | 1 |

| CaseNumber | Resp. Parties | OldMailRecipient | Country | SubCase | OldAtty2 | LogItemID | Current Parties |
|-------------|---------------|------------------|---------|---------|----------|-----------|-----------------|
| S1022.80602 | JHM | | US | 00 | LEA | 56515 | |
| S1022.80602 | JHM | | US | 00 | LEA | 60359 | |
| S1022.80602 | JHM | | US | 00 | LEA | 60360 | |
| S1022.80602 | JHM | | US | 00 | LEA | 64542 | |
| S1022.80602 | JHM | | US | 00 | LEA | 66126 | |
| S1022.80602 | JHM | | US | 00 | LEA | 91124 | |
| S1022.80602 | JHM | | US | 00 | LEA | 100060 | |
| S1022.80602 | JHM | | US | 00 | LEA | 116834 | |
| S1022.80602 | JHM | | US | 00 | SJG | 140423 | |

| Last Update: | Status | Disposition |
|--------------|---------|-------------|
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 27-Sep-2003 | Pending | |
| 08-Dec-2003 | Pending | |
| 23-May-2005 | Pending | |



ATTORNEY'S DOCKET NO.: S1022.80602US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David SMITH
Serial No.: 09/769,004
Filed: January 24, 2001
For: DESIGN FLOW CHECKER

Examiner: Baoquoc N. To
Art Unit: 2172

Confirmation No. 3814

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Transmitted herewith for filing is/are the following document(s):

- ☒ Request to Withdraw the Holding of Abandonment
- ☒ PAIR Printouts: Page 1 of OX; Envelope, Status Inquiry
- ☒ Docket Log
- ☒ Copy of Notice of Abandonment
- ☒ Return Post Card

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned collect at (617) 646-8000, Boston, Massachusetts.

No check is enclosed. If it is determined that a fee is necessary, the fee may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 3, 2005.

Attorney Docket No.: S1022.80602US00
X06/20/05

Respectfully submitted,

David Smith, Applicant

By:

James H. Morris
Reg. No.: 34,681
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210
Tel. (617) 646-8000